

VOL. CXIV.

LONDON : SATURDAY, SEPTEMBER 9, 1950.

No. 36

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## LEGACIES FOR ENDOWMENT

THOSE making or revising their Wills may like to consider benefiting some selected aspect of Church Army Social or Evangelistic work by the endowment of a particular activity—thus ensuring effective continuance down the years.

Gifts—by legacy or otherwise—will be valued for investment which would produce an income in support of a specific object, of which the following are suggestions :—

1. Training of future Church Army Officers and Sisters.
2. Support of Church Army Officers and Sisters in poorest parishes.
3. Distressed Gentlemen's Work.
4. Clergy Rest Houses.

Preliminary enquiries will be gladly answered by the

Financial Organising Secretary

**THE CHURCH ARMY**

55 Bryanston Street, London, W.1

## A Recommendation to Mercy

In recommending a bequest or donation to the RSPCA you may confidently assure your client that every penny given will be put to work in a noble cause. Please write for the free booklet "Kindness or Cruelty" to the Secretary, RSPCA, 105 Jermyn Street, London, S.W.1.

REMEMBER THE

**RSPCA**

## MISS AGNES WESTON'S ROYAL SAILORS RESTS

PORTSMOUTH (1881) DEVONPORT (1876)  
GOSSPORT (1942)

Trustee in Charge:  
Mrs. Bernard Carrey

All buildings were destroyed by enemy action, after which the Rests carried on in temporary premises. At Devonport permanent quarters in a building purchased and converted at a cost of £50,000 have just been taken up whilst at Portsmouth plans are well advanced to build a new Rest when permission can be obtained. Funds are urgently needed to meet heavy reconstruction commitments and to enable the Trustees to continue and develop Miss Weston's work for the Spiritual, Moral and Physical Welfare of the ROYAL NAVY and other Services.

Gifts may be earmarked for either General or Reconstructive purposes.

Legacies are a most welcome help

Not subject to Nationalisation.

Contributions will be gratefully acknowledged. They should be sent to the Treasurer, Royal Sailors Rests, Buckingham Street, Portsmouth. Cheques, etc., should be crossed National Provincial Bank Ltd., Portsmouth.

## Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. Latest time for receipt—9 a.m. Wednesday.

### COUNTY OF DERBY

#### Appointments of Clerk of the County Council and Clerk of the Peace

THE Derbyshire County Council invite applications from suitably qualified persons for the office of Clerk of the County Council.

The salary will be £2,250 per annum rising to £100 per annum to £2,750 per annum.

All fees and other emoluments received by the clerk by virtue of his appointment (other than fees for his personal remuneration as Acting Returning Officer at Parliamentary Elections), will be paid into the county fund.

In the event of the successful candidate being subsequently offered by the Court of Quarter Sessions and accepting the office of Clerk of the Peace an additional salary of £750 per annum will be paid.

Forms of application, and particulars of the terms and conditions of the appointment, can be obtained from the undersigned to whom applications should be sent not later than Saturday, September 30, 1950.

Canvassing in any form will be a disqualification.

H. WILFRID SKINNER,  
Clerk of the County Council.

County Offices,  
St. Mary's Gate,  
Derby.

### EAST RIDING OF YORKSHIRE COUNTY COUNCIL

#### Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary in accordance with the recommendations of the National Joint Council, namely, within A.P.T. Grade Va (£550 to £610) for applicants with less than two years' experience after admission, and otherwise, according to experience, within Grades VII and VIII (£635 rising by annual increments of £25 to £760). The appointment will be subject to three months' notice and to the National Conditions of Service as adopted by the County Council. The Local Government Superannuation Act, 1937, will apply, and the selected applicant will be required to pass a medical examination before appointment.

Applications, endorsed "Assistant Solicitor," stating age, qualifications and experience, together with the names and addresses of not less than three persons to whom reference may be made, must reach the undersigned not later than September 30, 1950.

Canvassing or failure to disclose any known relationship to a member or senior officer of the Council will disqualify.

T. STEPHENSON,  
Clerk of the County Council.

County Hall,  
Beverley.  
August 21, 1950

### GLOUCESTERSHIRE (COMBINED AREAS) PROBATION COMMITTEE

#### Appointment of Whole-Time Male and Female Probation Officers

APPLICATIONS are invited for the above appointments. Applicants must be not less than 23 nor more than 40 years of age except in the case of whole-time serving officers.

The appointments will be subject to the Probation Rules, 1949, and the salary in accordance with the prescribed scale.

The successful applicants will be required to pass a medical examination.

Applications, stating date of birth, present position, previous employment, qualifications and experience, together with copies of two recent testimonials must reach me not later than September 16, 1950.

GUY H. DAVIS,  
Clerk of the Committee.

Shire Hall,  
Gloucester.

### CORNWALL RIVER BOARD

#### Appointment of Clerk

APPLICATIONS are invited for the appointment of Clerk of the above Board, which has been established under the River Boards Act, 1948, and is responsible for land drainage works, the prevention of river pollution, salmon and fresh water fisheries and other duties under the Act, for an area comprising the whole of Cornwall and the south western part of Devon.

The person appointed will be responsible as Chief Executive Officer for the co-ordination and supervision of the Board's activities. Salary will be within the scale of £850 x £50 to £1,000 per annum, subject to such conditions of service contained in the Scheme of Conditions of Service of the National Joint Council for Local Authorities Administrative, Professional, Technical and Clerical Services, as are appropriate, and to a review of such conditions for general application to the Board's staff.

It is intended that the Board's offices shall be set up at Liskeard, Cornwall, and a mileage allowance appropriate for a car not exceeding 10 h.p. will be paid for official journeys.

The appointment which will be on a whole-time basis will be subject to the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination.

Applicants should preferably be Barristers or Solicitors, and previous service with a Local Government Authority, Catchment Board or Fishery Board will be an advantage.

Applications, giving particulars of qualifications and previous experience, with one testimonial and the names of not less than two referees, should be received by the undersigned not later than Saturday, September 23, 1950.

E. T. VERGER,  
Acting Clerk of the Cornwall River Board.  
County Hall,  
Truro.

### CITY OF STOKE-ON-TRENT

#### Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary in accordance with the National Scheme of Conditions of Service, viz.:— (a) Upon appointment (if less than two years' legal experience after admission) — A.P.T. Division Grade V (a) (£550—£610 per annum). (b) after two years' legal experience from the date of admission—A.P.T. Division Grade VII (£635—£710 per annum).

Previous Local Government experience is desirable but not essential.

The appointment is subject to the Local Government Superannuation Act, 1937, and to the National Scheme of Conditions of Service. Applicants will be required to undergo a medical examination.

Applications, giving qualifications and experience, accompanied by C.V. of not more than three recent testimonials, and endorsed "Assistant Solicitor," should be sent to the undersigned not later than September 22, 1950.

HARRY TAYLOR,  
Town Clerk.

Town Hall,  
Stoke-on-Trent.

### NEW FOREST RURAL DISTRICT COUNCIL

#### Assistant in Clerk's Department

APPLICATIONS are invited for this appointment at a salary within Grade A.P.T. 3 and 4. Applicants must be experienced in conveyancing and court work, and the successful candidate will be expected to assist with the general administration work of the office. Experience in a Town Clerk's or Clerk's Department of a Local Authority, though not essential to appointment, will therefore be considered an advantage.

Housing accommodation within the Council's area will be offered to the successful candidate if married, but the Council cannot guarantee the type of accommodation nor its exact location in their area which is very extensive.

Applicants should give full details of their experience and War services if any, and should state the earliest date upon which they could take up the appointment. Testimonials are not required, but the names of two referees should be sent, and applications must be in my office not later than September 20, 1950.

A. E. N. ASHFORD,  
Clerk.

Council Offices  
Lyndhurst,  
Hants.

### SITUATION VACANT

LAW CLERK.—The Finsbury Borough Council invite applications for the appointment, on the permanent staff of the Town Clerk's Office, of a Law Clerk, at a salary in accordance with Grade A.P.T. IV of the National Scales (viz. £480 per annum, rising by annual increments of £15 to £525) plus London Weighting (maximum £30). Applicants must have had substantial experience in a solicitor's office or in the legal department of a local authority. Applications, stating age, experience and qualifications, accompanied by copies of two references, must reach the Town Clerk, Finsbury Town Hall, Rosebery Avenue, E.C.1., not later than September 23, 1950.

# Justice of the Peace and Local Government Review

[ESTABLISHED 1887.]

VOL. CXIV. No. 36.

Pages 506-517

LONDON: SATURDAY, SEPTEMBER 9, 1950

Office: LITTLE LONDON,  
CHANCERY, SQUARE.

[Registered at the General  
Post Office as a Newspaper]

Price 1s. 8d.

## NOTES of the WEEK

### Character and Antecedents

The precise meaning to be attached to these words when considering whether the character and antecedents of a defendant are such that he should be committed to sessions for sentence in accordance with s. 29 of the Criminal Justice Act, 1948, has apparently not been the subject of consideration by the High Court. This is not surprising since usually there can be little doubt about such a matter; if the defendant has no previous convictions or findings of guilt recorded against him then, in the eyes of the court, he is of good character, and a committal under s. 29 would not be justified. In a metropolitan court recently, the question was raised whether there could properly be a committal to sessions in a case where the defendant, who had no previous convictions recorded against him, pleaded guilty to three charges of fraud and asked that a further twelve similar charges, which he had committed over a period of two years prior to the offences to which he had pleaded guilty, should be taken into consideration. During these two years no suspicion had fallen upon him, he had a good work record, and in the eyes of his employers, colleagues and friends he was, until the frauds were discovered, a man of good character. In the event the magistrate did not commit him for sentence, but it is arguable that he would have been justified in doing so; true the defendant's character was generally held to be good, but in fact it was not; furthermore there seems no logical reason why the crimes committed by him during the previous two years should not be regarded as part of his antecedents just as much as his work record.

However perhaps it would be well for prosecutors to remember that the High Court has recently on more than one occasion reminded courts of summary jurisdiction that the fact that the court has jurisdiction to deal with a case does not necessarily mean that this course should be followed, and that serious indictable offences—and an offence may be serious from its intrinsic nature or from the frequency with which it has been committed—should be sent for trial by a higher court.

### A Poultry Shed as a Vehicle

We referred at 114 J.P.N. 442 to the case of *Garner v. Burr and Others*. We have now seen at (1950) 210 L.T. 95, a report of this case. The justices found the defendant not guilty because in their view the poultry shed was not a vehicle, in that it was not an instrument by which persons or goods were conveyed, and so was not a trailer within the Road Traffic Act, 1930, s. 1. Alternatively, if it was a vehicle it was also a land implement within the 1947 Construction and Use Regulations, reg. 3 (1) and was excluded, therefore, from the requirements of the regulations. The form of charge was that the shed, which was on wheels and had no brakes, no soft or pneumatic tyres and no identification mark at the back, failed to comply, as a

trailer, with the appropriate regulations as to construction, weight and equipment.

The High Court held that anything on wheels drawn by a motor vehicle was a trailer within s. 1 of the 1930 Act and also that the poultry shed was not a land implement. The justices' decision, therefore, was wrong.

### The Legal Aid and Advice Act (Commencement) Order, 1950

This order was made on August 4, 1950, and brings into force on October 2, 1950, certain provisions of the Act as follows:—

- (a) ss. 1 to 6 (except s. 5) and the 1st, 2nd and 3rd schedules, for the purpose only of making legal aid available in connexion with proceedings in the Supreme Court, proceedings in any county court or the Mayor's and City of London Court in or in connexion with any action, cause or matter remitted or transferred thereto from the Supreme Court, and proceedings before any person to whom a case is referred in whole or in part by the Supreme Court, or, where the case has been remitted or transferred by the Supreme Court to a county court or to the Mayor's and City of London Court, by either of these Courts.
- (b) s. 12, ss. 14 to 16, and s. 17 (1) to 17 (4) in so far as they relate to legal aid in connexion with such proceedings, and
- (c) s. 17 (5) and s. 17 (6).

In connexion with the coming into force of the above provisions there have been made also the Legal Aid (General) Regulations, 1950, and the Legal Aid (Assessment of Resources) Regulations, 1950, both of which also come into force on October 2, 1950. We propose to deal shortly with them on another occasion.

### Persistent Young Absconders

According to a paragraph in *The Times* of August 29, the council of the Magistrates' Association is very concerned that some provision should be made to deal more adequately than is done at present with persistent absconders from approved schools. It is reported that the managers of the the Cotswold School are making an experiment in the use of detention rooms for boys who are persistent absconders, and it is said that the Magistrates' Association is asking the Home Office if any similar experiment is being tried for girls, who present, in the Association's view, an even more difficult problem than the boys.

It is obvious that successful persistent absconding by a minority of those in an approved school is very bad for them individually, as preventing them from benefitting as they should from the training the school provides, and is equally bad as setting an unfortunate example and having an unsettling effect on the other inmates. If, therefore, some means can be devised for dealing with these persistent offenders against discipline, it will be a great advantage to all concerned in the

running of approved schools. None of us can get through life without having regard for discipline and control and the need for these restraints on freedom of self-expression should be brought home, somewhat forcibly if necessary, to those who are given the opportunity of benefitting from our well-run, and often by no means cheaply-run approved schools.

### The Practical Side of Probation Work

The old police court missionaries from whom the modern probation officers have evolved were essentially practical people with an abundance of commonsense and practical knowledge of human nature, and little or no knowledge of theoretical psychology. The modern probation officer is required to know more of the theory, but we are glad to notice from reports which we see from time to time that the practical knowledge is still there.

We have just read the report of the probation officers for the magistrates' court of the county borough of East Ham for the year ending June 30, 1950, and it contains a number of shrewd comments on matters of every day importance. Here is one: "in many homes from which delinquent children come 'bringing up' children seems to be becoming a lost art. At a very early age many are left to fend for themselves, to seek their own pleasures in their own way without any help or guidance, and the home becomes little more than somewhere to eat and to sleep." Here is another, showing a combination of the practical and the theoretical: "the attempt to develop in the child standards of conduct higher than those of his parents, without involving him in serious emotional conflict, must proceed at a pace which he has the intellectual capacity to bear." These are not, of course, new ideas, but they are woven into the report in a way which makes one feel that here, as so often is the case, are officers with a love for their work and an approach to it that promises well for those put under the supervision or otherwise brought officially into touch with them.

### Housing and Boundaries

Proposals for a new species of housing administration, in which financial and technical assistance would be given by county councils to councils of county districts providing for overspill population of large towns, are having a doubtful reception. Origin of the proposals appears to have come from county councils as a means of combating territorial claims by county boroughs asseverating practical impossibility of solving local housing problems without additional land obtainable only by extension of boundaries. Any device enabling local authorities to utilize facilities for building houses immediately a share of the tenuous national total is indicated is certainly worth consideration. Use of the Local Government Act, 1948, s. 126 (contributions of county councils to expenses of county district councils) in the manner proposed may, however, be thought unlikely to prove satisfactory, more for administrative than financial reasons.

Credit must, of course, be given to county councils willing to take a regional view as regards the conduct of certain functions. A fair number of the criticisms made against the local government structure of the country would have lacked substance if local authorities had been less jealous of exclusive autonomy within boundaries hopelessly outmoded by social outlook, speed of communications and administrative technique, and they might yet have played a more specific part in the services transferred from them to other bodies. Unfortunately, the record of co-operational arrangements, where such have been entered into, points away from the probability that adequate initiative and energy of execution can be counted upon.

Joint bodies having an existence apart from the constituent authorities represented in them have some chance of success, though progress is often hampered, if not precluded, by myopic views unable to look round or above sectional interests. Unless commitments under a housing scheme to be executed by the council of a county district, on behalf of a county borough, with financial assistance from a county council, can be cut and dried at their inception, which, while not impossible, seems improbable, prospect of success would be hazardous and, in any event, the time for attainment would be lengthy. A far stronger case exists for settling claims which county boroughs may have for extensions of area to give space for housing which can be planned, provided and financed under the more effective and economical procedure available to an administrative body exercising all the necessary powers without distractions and difficulties which are so often the concomitants of divided responsibility.

### The International Conference of Social Work

We referred at p. 371, *ante*, to the British National Conference on Social Work held at Harrogate. This was preparatory, from the British point of view, to the International Conference which was held at the Sorbonne, in Paris from July 23 to 28, and was attended by representatives of forty-seven nations. The theme of the Paris Conference was "Social Work in 1950, its boundaries its contents." The Conference was attended mainly by representatives of voluntary organizations, but, as at Harrogate, the interest of government departments was shown by the presence as observers of representatives of the Colonial Office, the Home Office, and the Ministry of Health.

The subjects dealt with were: "Present day Problems of Social Work"; "The various Techniques to which Social Work should be adapted"; "The Place of Social Work within the large Public and Voluntary Social Services"; "Relations between Public Bodies and Voluntary Organizations in the Sphere of Social Work"; "Future Prospects in Social Work"; and "Contribution of International Conference of Social Work to Social Progress."

The usefulness of a conference of social work in this country is always increased by their being many representatives of local authorities or local government organizations. Although no doubt some of those who attended the Paris Conference in their personal capacity had experience of local government as it is practised in different countries, the emphasis was, perhaps not unnaturally, mainly on the side of social workers who are concerned with voluntary organizations, some as paid members of the staff and others as honorary workers. It would have brought more balance to the discussions if it had been possible for more representatives from the field of local government to attend.

As at Harrogate, commissions were set up to deal with the various topics but only a limited number of the members were able to attend the commissions, as they were deliberately small bodies with one or two representatives from each country. A much larger number however had the opportunity of attending open discussions on the following subjects:—

Social Work and the Family; Social Service and Displaced Persons; Social Service in the Rehabilitation of the Physically Handicapped; Contribution of Social Work in the new techniques in dealing with socially maladjusted children; Social Service in Industry; Social Service in Rural Areas; Social Service in Areas in process of Economic and Social Development; Community services; Welfare of the Aged; Social Work and Housing of Problem Families; Practical Training of Social Workers; International Exchanges between Social Workers.

The chairmen of the commissions and open discussions came from different countries, Great Britain being represented by Miss G. M. Aves, O.B.E., who took the chair at one of the commissions and by Mr. John Moss, C.B.E., who took the chair at the open discussion dealing with the Welfare of the Aged. Mr. George Haynes, C.B.E., president of the International Conference acted as president of the Conference, but most of the plenary sessions had chairmen from different countries. Addresses at these plenary sessions were given by experts from different countries including Miss Jane Hoey, director of the Bureau of Public Assistance, Federal Security Agency, United States. Mr. B. E. Astbury, O.B.E., general secretary, the Family Welfare Association, London, and Mrs. Alva

Myrdal, principal director, Department of Social Affairs, United Nations, Lake Success, and Mrs. Billimoria, the general secretary, the Indian Conference on Social Work.

Those attending the conference had many opportunities of meeting outside the formal meetings, including at receptions arranged by the French Red Cross Society, the Cite Universitaire, and by the President of the Municipal Council of Paris. The French Government took a great interest in the conference was shown by the welcome extended by one of the ministers at the first session.

We hope to deal with some of the discussions which took place at the conference when the detailed report is available.

## "TAKE IT FROM HERE"

[CONTRIBUTED]

The title of a popular radio feature which heads this article sums up adequately the feeling of many juvenile court justices in respect of the new adoption laws. Experience is showing that their duties in relation to adoption have so few judicial aspects that they feel that they can be done just as well by an executive officer such as a registrar of births, marriages and deaths, or even that maid-of-all-work, the clerk to the justices. Adoptions, many feel, can well be taken from the justices who can better spend their time on their judicial functions.

What has led to this opinion being formulated, and is there any justification for it?

To answer these questions it is necessary to examine adoption procedure to discover exactly what part the justices play in the making of an adoption order. The Adoption of Children Acts, 1926 to 1949, the Adoption Act, 1950, and the 1949 rules lay down all the law and machinery for executing it. In the first place, an applicant for an adoption order must lodge with the clerk of the juvenile court a statement of application in duplicate. When that is ready and the necessary supporting documents are prepared—birth certificate, consents, etc.—the court appoints a guardian-*ad-litem* and fixes a date for the hearing. In many courts this is done by the clerk without reference to the justices; in others, the letter of the law is followed and the justices nominally make the appointment and fix the date. It is, of course, an *ex parte* application and neither course makes the slightest difference to the result.

This step having been successfully surmounted, the clerk now passes to the guardian-*ad-litem* the documents, retaining one copy of the statement of application, and on the guardian falls the duty of notifying parties of the date of the application. If the applicant wishes his identity to be kept secret he is allotted a serial number by the clerk, and if the parent wishes to oppose the application he must write and say so, when he is given a day on which he can appear and state his objection—but he must not be allowed to meet or even see the prospective adopter. He will be seen by the justices in the adoption court and his objection will be examined. If it is only that he does not know the identity of the adopter, the court has no discretion; it is required to hold that his consent is unreasonably withheld. If it is for any other reason, it must be examined on its merits. It is so exceptional for parents to change their minds after adoption proceedings have reached the hearing stage that clerks or justices with experience going back even to the beginning of adoption in 1926 have no difficulty in recalling the cases where this has happened. In the writer's experience (which embraces many hundreds of adoption applications) only two mothers changed their minds—one, genuinely, because she decided to

keep her baby, and the other because she had quarrelled with her aunt, the adopter—a quarrel made up a week later when the adoption went through. The protection this procedure affords is real, it would be idle to deny it, but it exists for so insignificant a number of cases as to be not worth retaining in its present form.

To continue with the procedure—the guardian-*ad-litem* not only serves all notices but also has the duty of making detailed inquiries relating to the infant, the parent and the adopter. It is important to remember that some of these inquiries will be made through other agencies—health visitors, officials in other towns or districts, etc.—and that the final report drawn up by the guardian-*ad-litem*, while exhaustive and probably true, would rarely be admissible as complying strictly with the laws of evidence.

Thus we arrive at the day of the hearing. If the adopter is known only by a serial number the parent will already have been disposed of, as described. In such a case, the adopter will come to court without the infant (the court may only require the infant to attend in exceptional circumstances or unless he is of an age to understand the proceedings), in order to obtain his order. At this stage practice varies from court to court. In some courts the guardian-*ad-litem* is seen alone and his report is read. In others he is seen with the adopter and his report is read in silence by the justices, the adopter not hearing it; in others his report is read aloud in the adopter's presence. In some courts he is put on oath; in others, he is not, as it is considered that he is not giving first hand evidence having regard to the way his report is compiled.

The adopter is then sworn and is asked to prove his statement of application. Highly questionable evidence identifying an absent infant with a birth certificate is submitted and in all but an insignificant number of cases an adoption order is made. Five minutes per case is a fairly generous allowance.

If the parent is not opposing the application he is not seen and one stage is omitted. In such a case the court has no power to require the parent to attend, unless there are some exceptional circumstances.

The new law has "mechanized" adoption. It has so far removed the human element that the justices' functions now consist of little more than verifying documents and eventually signing an order. Almost everything depends on the work and the report of the guardian-*ad-litem* and if all but contested cases were taken out of the hands of the juvenile court exactly the same results would be obtained with far less inconvenience to the parties and with considerable relief to already overworked clerks and justices.

## CHILDREN ACT, 1948: ORDINARY RESIDENCE

By R. L. C. WOOD, LL.B., D.P.A.

The question as to the correct interpretation of the words "is then ordinarily resident" in s. 1 (4) of the Children Act, 1948, is giving rise to considerable difficulty among local authorities and in order to avoid the dissension which formerly arose from a similar problem, that of settlement under the Poor Law, an attempt is made here to clarify the matter. The importance to local authorities of determining the question of ordinary residence arises in its application to liability for maintenance, since even after making allowance for Home Office grant under the Act, the cost of maintaining a child in care is considerable.

Section 1 (4) provides that where a local authority receive a child into care who is then ordinarily resident in the area of another local authority that local authority may take over the care and the first mentioned authority may recover any expense duly incurred by them under Part II of the Act. Subsection (5) excludes for this purpose the artificial periods of residence in schools or institutions or in accordance with the requirements of a supervision or probation order, the continuance of a recognition or while boarded out by a local authority or education authority and the statute has had the wisdom of referring any question arising under the subsection as to the ordinary residence of a child to the determination of the Secretary of State and thus has avoided the endless and expensive litigation which formerly characterized the problem. Nevertheless, the Secretary of State in determining the fact of residence is bound to apply correct principles of law and in considering whether to refer a case to the Secretary of State a local authority must decide whether a question of fact can legally arise in the particular circumstances for the Home Secretary's decision.

A similar problem is met under s. 70 (2) of the Children and Young Persons Act, 1933, which requires an approved school order to name the local authority within whose district the child or young person was resident and it is interesting to compare the opinion expressed in an article at 103 J.P.N. 146 with the judgment of the King's Bench Division in *South Shields Corporation v. Liverpool Corporation* (1943) 107 J.P. 77. In that case the young person when first she required care and protection was resident in South Shields and was put on probation with a condition requiring her to reside in Liverpool. She ran away from her Liverpool home and returned to South Shields and an approved school order was made. It was held that the material time for the purpose of ascertaining residence was the time of the making of the approved school order not the time at which the child was first before the court as a young person in need of care and protection, and that her residence was therefore in Liverpool. Viscount Caldicote, L.C.J., said: "The conclusion at which I have arrived is that the time at which the court should look to see what was the child's residence, was the time at which the second order was under consideration, the time, in other words, at which the case was before the court. That does not mean . . . the court have to ask themselves where the child slept the previous night, but where his residence was, or as it might be said, his home was." In *Yorkshire West Riding Council v. Colne Corp.* (1917) 117 L.T. 671 under the Children Act, 1908, Darling, J., used these words expressing his agreement with the magistrates: "Where his father's house was." He said: "I have come to the same conclusion, that the child resided at home at Skipton, where his father's house was, and that he had run away from home and gone to stay with his aunt in order to avoid the risk of apprehension for larceny." That, I think, is the right way in which you should approach the question of the residence of these children or young persons. A child or young person would generally live with his parents. If his parents are

dead he would probably live with some other adult person who was a member of his family. I think it is material to consider where the young person's home was, in order to see where his residence was and that the magistrates or the juvenile court should, therefore, not ask where he was resident it may be one or two years before, when the original order was made in respect of him as a child or young person in need of care and protection, but should consider the facts as they were at the time when the matter came before the Court."

The Children Act, 1948, s. 1 (4), removes any ambiguity arising from the use in the Children and Young Persons Act, 1933, of the words "was resident" by employing the present tense "is then ordinarily resident" and this reinforces the decision in *South Shields Corp. v. Liverpool Corp.*, *supra*. "Then" clearly refers to the point in time when a local authority receive a child into their care.

In *Stoke-on-Trent Borough Council v. Cheshire County Council* (1915) 79 J.P. 352, a case arising under s. 74 (7) of the Children Act, 1908, Lord Reading, C.J., said: "... residence . . . must be construed in the ordinary way and according to the ordinary meaning of language . . . a youthful offender is . . . resident where he lives, that is where he has his bed, and where he dwells." In *R. v. North Curry (Inhabitants)* (1825) 4 B. and C. 953, Bailey, J., said that "resides" denotes the place where an individual eats, drinks and sleeps, or where his family or his servants eat, drink and sleep. These cases and that of *Berkshire County Council v. Reading Borough Council* (1921) 85 J.P. 173, show conclusively that the place of residence is no transient affair but has some degree of stability, permanence and settled purpose and must be construed in accordance with ordinary standards as a matter of present physical fact having no regard to any question of constructive residence.

Section 1 (4) of the Children Act, by using the word "ordinarily," which is defined in the *Oxford English Dictionary* as "usually," "commonly" or "as a matter of regular practice," clarifies the definition further by excluding any idea of temporary or casual residence.

It should be emphasized that it is the residence of the child, defined in s. 59 as a person under the age of eighteen years, that is the determining factor. It will be recalled that in *Stoke-on-Trent v. Cheshire County Council*, *supra*, it was held that a lad may reside where he is employed, away from his father's home although mere temporary residence away from home as, for example, at a boarding school, would not be sufficient to constitute residence for this purpose (*R. v. Abingdon Union* [1870] L.R. 5, Q.B. 406). On the other hand, although volition is generally essential to residence, this on the analogy of *Re X.Y.* (1937) Ch. 337 CA., a case concerning a mental patient, is presumably not so with a child of tender years who is incapable of the necessary volition.

The determination of residence is bound to give rise to difficulties in practice since most of the children who come into care under the Children Act are from families who have not the advantages of a stable home background and whose residence is likely to be more difficult to determine than those of their more settled neighbours. The important conclusion to be drawn is that while cases of difficulty may be referred to the Secretary of State for his decision, it would be preferable to do so by submitting joint cases by agreement and any differences of interpretation which may arise between local authorities should not be permitted to cloud the spirit of the Act or obscure the vital aims of stability and happiness.

## INVESTMENTS OF LOCAL AUTHORITIES

The successful investment of local authority funds is becoming an increasingly difficult and complex problem, partly because of those general factors of political and economic uncertainty which trouble all investors, and partly because of the continuing rapid growth of local authority funds and the closing of those other outlets for their use which were formerly available. The way in which funds have increased is shown by sample figures obtained in 1944 from seven county, eleven county borough and three non-county borough councils in England and Wales, and from two county, one city and three burgh councils in Scotland. The aggregate figures are as follows:—

Year ended March 31	Nominal amounts of Government Securities held £
1939	26,324,736
1942	45,263,947
1943	65,178,593
1944	84,873,934

A further large increase has undoubtedly been made in the last six years. In one county, not the largest by any means, new money for investment becomes available at the rate of some £350,000 a year.

The sources of new money differ according to the type of local authority: normally the largest accumulation is on the Superannuation Fund but in addition mortgage loan or stock sinking funds, consolidated loans funds, and reserve funds of various kinds swell the flow. In pre-war days most authorities took advantage of powers given by s. 21 (3) of the Local Government Superannuation Act, 1937, s. 213 of the Local Government Act, 1933, art. 9 of the Stock Regulations, 1934, and the provisions of Consolidated Loans Fund schemes to use surplus superannuation and sinking fund money for new capital expenditure of their own, and investment problems did not arise so often. Two factors have contributed to the almost total elimination of this practice, the first being that the sum of new capital expenditure (with the exception of housing) is considerably less than the funds available, and the second that with the rates of interest charged by the Public Works Loan Board maintained artificially at figures from  $\frac{1}{2}$  to  $\frac{3}{4}$  per cent. below market rates, local authority treasurers have done good business for their ratepayers by selling in the dear market and buying in the cheap one—in other words they have invested their authorities' funds in trustee securities and borrowed for new capital expenditure from the Board.

Even the field of investment has narrowed. The trustee securities in which superannuation fund moneys must be invested include mortgages of certain local authorities: the wider embracing "statutory securities" in which sinking and loan redemption funds are to be invested includes mortgages of all local authorities. But the existence of the two differing rates of interest mentioned earlier closes this door because no borrowing authority wishes to pay more than the Loan Board rate of interest while no lending authority is prepared to accept a rate so much below what can be obtained elsewhere.

Investments have had to be made therefore in other authorized securities, which in practice means government securities of the United Kingdom. The prices of such securities fluctuate widely, and some of the purchases made during the last five years show heavy losses on paper at the present time. We wonder, for example, what hope there is for those who subscribed at par for Dalton Treasury  $2\frac{1}{2}$  per cent. Stock (showing a capital loss of £29 per cent. at the time of writing) of ever seeing

their money back, apart from being forced to accept an interest rate of  $2\frac{1}{2}$  per cent. in perpetuity.

Factors of this sort prompt consideration of s. 1 (b) of the Trustee Act, 1925, as a possible satisfactory alternative to investment in government securities. This subsection authorizes a trustee to invest any trust funds in his hands "on real or heritable securities in the United Kingdom, including the security of a charge on freehold land by way of legal mortgage and a charge under s. 33 of the Finance Act, 1896."

Section 5 of the Trustee Act, 1925, enlarges on the powers of investment of trustees as follows:—

(1) A trustee having power to invest in real securities may invest ...

(a) On mortgage of property held for an unexpired term of not less than two hundred years, and not subject to a reservation of rent greater than a shilling a year, or to any right of redemption or to any condition for re-entry, except for non-payment of rent; and

(b) on any charge, or upon mortgage of any charge made under the Improvement of Land Act, 1864.

(2) A trustee having power to invest in real securities may accept the security in the form of a charge by way of legal mortgage, and may, in exercise of the power, convert an existing mortgage into a charge by way of legal mortgage.

The power to invest in real securities does not authorize the purchase of land (*Re Mordan* [1905] 1 Ch. 515), and since the legal term "lands" includes buildings this decision restricts the powers of investment by trustees in property very considerably.

Consequently, a local authority fund is confined to making advances upon mortgage of freehold land and buildings. With regard to advances on house property, the requirements of borrowers are already catered for by building societies and local authorities. A comparison of sources available to borrowers at the moment is as follows:—

Mortgagees	Rate of interest %	Term of advance Years	Type of Property	Advances on leasehold property
Building Society	4	20 normally	Mostly smaller type houses	Yes
N.A.L.G.O. "	$3\frac{1}{2}$ – $4\frac{1}{2}$ (depending on whether occupied or let).	Ditto.	Ditto.	Yes
Local Authority:— Small Dwellings Acquisition Acts 1899–1923	$3\frac{1}{2}$	Not exceeding 30 but usually 20	Value not exceeding £5,000	Yes. To limited extent
Housing Act, 1949	$3\frac{1}{2}$	Ditto.	Ditto.	Ditto.

\* Present rate  $\frac{1}{2}$  per cent. above P.W.L.B. interest rates on loans to local authorities.

In view of these facilities it may be thought that the market in respect of normal dwelling houses is adequately supplied.

In normal circumstances local authority funds could be used for small dwellings advances but the low rate of interest prescribed makes such a procedure uneconomic. Having regard to this point and to the other facilities available, it does

not seem that there is a worth while new outlet for surplus funds in this market.

We believe, however, that investigation of the possibilities of advances on other classes of property might well be fruitful. Expert advice would be necessary and this would cost money, but let it not be forgotten that it costs £130 to buy £100,000 worth of government securities on any stock exchange. The rate of interest on a twenty year mortgage would be in the region of four per cent. at the present time: the current gross yield on government stocks with a twenty year life is, at the time of writing, in the region of £3 6s. per cent., a difference of 14s. per cent. Against this gross difference must be set the heavier expenses of investment, but as the initial costs relating to an advance (stamp duty, survey fee and legal cost) would be met by the borrowers, the expenditure upon day to day management should not prove heavy, since the machinery for collection is already in existence. Many superannuation funds now amount to well over a million pounds, and continue to grow rapidly: the possibility of increasing yields while safeguarding capital is well worthy of serious consideration.

The foregoing represents the limit of what is possible under existing law: the remaining question is whether the law should

be amended. In our opinion it should. Local authorities should be given power to acquire and hold real property as an investment. In this way an income at least equivalent to that obtainable from gilt edged stocks could be earned and in addition capital appreciation secured at suitable times. The value of money has shown a substantial fall since the beginning of the first Great War, the decline being particularly marked since 1939 (when superannuation funds began to accumulate on a large scale as a result of the coming into operation of the Local Government Superannuation Act, 1937). This is exemplified by the following extracts from various index numbers:—

Year	Retail Prices*	Wholesale Prices		Rates of Wages†
		Board of Trade	"The Statist"	
1913	64	82	95	50
1938	100	100	100	100
1939	102	101	108	101
1945	148	166	191	154
1949	178	226	347	193

\* Compiled by the London and Cambridge Economic Service.

† Compiled by Professor A. L. Bowley.

Investment in property would produce advantages in such circumstances to offset increased charges in other directions.

## THE LANDLORD AND TENANT ACT, 1927 SECTION 4 (1), PROVISIO (g)—AND A QUESTION

By L. G. H. HORTON-SMITH, Barrister-at-Law

It is common knowledge that it is s. 4 of the Landlord and Tenant Act, 1927, which confers on trade and business tenants their right to compensation for the loss of such part of the goodwill by them created as remains attached to their premises on their quitting at the expiration of their tenancy. It was made abundantly plain by the Court of Appeal in *Clift v. Taylor* [1948] 2 All E.R. 113; [1948] 2 K.B. 394; 64 T.L.R. 346, that, if a tenant is to have any case for the grant of a new lease under s. 5, he must in his action therefor, under s. 5, first establish the awardability to him of compensation under s. 4. Thus s. 4 is the gateway—and the only gateway—to s. 5. To establish a case under s. 4, however, regard has to be had to its provisos (a) to (g), some of which have the effect of cutting down the awardable compensation, whilst some have the effect of cutting out compensation altogether.

It is with one of these latter that I desire to deal; more, perhaps, for the purpose of eliciting information than for that of giving it. For it appears to be the subject of much professional difference of opinion. I refer to s. 4 (1), proviso (g), which runs as follows:—

### PROVISIO (g)

"(g) Where any government department, or a local or public authority, or a charity, or a statutory or public utility company have, in pursuance of the powers contained in the lease, terminated the lease by resuming possession of the premises for the purpose of the department or any other government department, or of the authority, or of the charity or of the undertaking of the company, or where premises the tenancy whereof has expired by effluxion of time are required for any such purpose no compensation shall be payable under this section."

### THE QUESTION

The question which has arisen—and which is by no means susceptible of easy answer—is whether a lease (for the wide meaning of which see s. 25), in order to come within this proviso

(g), must itself contain a provision enabling the landlord to terminate the lease at any time in order then and there to resume possession of the premises for the purpose mentioned in the proviso. To put it in another way: do the words "the powers contained in the lease" mean something more than the ordinary powers of terminating a tenancy by due notice to quit, where such is the mode of its termination as arranged by the parties in the agreement of tenancy itself?

The trouble is caused by the words "have terminated the lease by resuming possession." Do they mean anything more than "have terminated the lease and then resumed possession"?

That the answer to the question, or questions, thus put should be in the affirmative is, I believe, the view of many. But is it right? I confess that I entertain the gravest doubt as to its being right;—and the more so, in that it completely ignores the latter part of the proviso, which, however, cannot be ignored and which, of itself, sheds a strong light upon the true intent and meaning of the proviso's earlier part.

### TWO SEPARATE CLASSES OF TENANTS

Before setting forth the view which I have ventured to form, let me remind my readers that the Act, throughout, has to deal with two separate classes of tenants: (1) those whose tenancies fall to be terminated by notice, and (2) those whose tenancies (to put it shortly) expire by effluxion of time. This clear distinction will be seen in s. 1 (1) dealing with compensation for improvements, s. 4 (1) dealing with compensation for attached goodwill, and s. 5 (2) dealing with the date when tenants of such two classes, respectively, have to start their action for a new lease.

Is not the existence of these two separate classes of tenants what Parliament had in mind in framing proviso (g)? Were not the words in its opening part—namely "have, in pursuance of the powers contained in the lease, terminated the lease by

resuming possession of the premises "for the purpose indicated—merely used to indicate that such early part of the proviso is dealing with tenancies within s. 4 (1) (i), i.e., *tenancies which fall to be terminated by notice*, as contrasted with the latter part of the proviso, which concerns "premises the tenancy whereof has expired by effluxion of time," i.e., tenancies within s. 4 (1) (ii)?

It is quite obvious that with regard to this second class of tenancies, no such question, as that which has arisen in regard to such first class of tenancies, could arise. Why, then, should it be thought that the mind of Parliament was directed to drawing such a distinction between the two as to enact a special provision as to the contents of the one which has no application whatsoever to the other? It seems a most unreasonable view.

I doubt, indeed, whether any question as to the meaning of the earlier part of the proviso would have arisen if, instead of the words "where...or where," the words had been "where either...or," which would have precisely the same meaning.

#### PARLIAMENT'S SOLE PURPOSE AND THE RESULTANT ANSWER

And, finally, what was the intention of Parliament—what was in the mind of Parliament—in enacting this proviso (g)? It was intended solely to privilege the landlords therein referred to from having to pay any compensation to their tenants in all

cases wherein the premises in question were at the respective times indicated by the proviso going to be used for the purposes indicated. Thus, in my submission though not altogether without diffidence, the words "the powers contained in the lease" in the earlier part of the proviso merely refer to the powers therein contained as to the notice to be given on either side in order to terminate the tenancy.

Though the question is a serious one, nevertheless, curiously enough, I find no reference to it either from the pen of the Editors of *Law Notes* in their work upon the Act, 2nd edition, 1930, at p. 55, or from that of Mr. Merlin in his own work upon the Act, 2nd edition, 1931, at pp. 24 and 34. Indeed, at the latter page he contented himself with writing: "For instances of cases in which the right of the tenant to compensation for goodwill may be wholly extinguished or lost the following may be cited: . . . (d) Where a landlord is a Government department, or a public authority, or a charity, or a statutory or public utility company and require the premises for its own purposes. (See clause (g) of the proviso." And the same is repeated by him and his co-editor, Mr. G. Avgherinos, in the 3rd edition of the same work, 1949, at p. 36. This does not touch the problem itself, but it emphasizes what I have said as to what was in the mind and what the express purpose of Parliament in enacting this proviso.

## THE REPORT OF THE CENTRAL HEALTH SERVICES COUNCIL

The Central Health Services Council was constituted by s. 2 (1) of the National Health Service Act, 1946, and is required to make an annual report to the Minister of Health. The first report was issued recently.

Most of the matters contained in the report are concerned with the administration of hospitals which is not, of course, the direct concern of local authorities, but they are much concerned in the difficulty of obtaining admission to hospital as this may be a source of embarrassment to local health authorities who are sometimes called upon to provide services, such as home nursing and domestic help, to persons who should be in hospital. Some parts of the report are therefore of more general interest than merely to those bodies who are now responsible for the hospital service.

A section of the report which is however of direct interest to local health authorities is in relation to the provision and administration of health centres. For instance, the council recommended that doctors in practice at a health centre should be able, if they wished, to treat private patients at that centre. This recommendation was accepted by the Minister of Health and effect was given to it by the inclusion in the schedule to the National Health Service (Amendment) Act, 1949, of amendments to ss. 21 and 46 of the National Health Service Act, 1946.

Dealing with the pressure on hospitals, it is noted that as the first winter of the National Health Service approached, the mounting waiting lists for admission to hospital and the growing congestion in the hospital out-patient waiting departments were watched with considerable anxiety. It was hoped that the proposal made by the Minister to hospital authorities in January, 1949, for the introduction of an appointments system would eliminate unnecessary out-patient attendances, reduce waiting time and secure the maximum convenience and comfort of the out-patient. When it came however to consider the difficulty of in-patient admissions, the council decided to consider the

following types of cases separately—acute emergency, non-urgent, early malignant, and aged chronic sick. Two aspects of the acute emergency case appeared to require special comment. The first was that under the National Health Service there was no means of requiring a non-mental hospital to admit a patient. Secondly, it did not appear that there was any co-ordination of the channels for admission to the various hospital groups. The Minister was advised, therefore, that Regional Hospital Boards should set up an emergency bed bureau for each appropriate area which would be responsible for the admission of emergency cases from that area. With regard to non-urgent cases it was recommended, *inter alia*, that more patients should be treated in their homes by means of domiciliary visits and that the average length of stay of patients could often be shortened by increasing the frequency of specialist visits. The proposals with regard to the emergency bed service are already operative in the London area and similar bed bureaux are being set up elsewhere in the country.

With regard to old people the council recommended that every encouragement should be given to the provision of treatment for old people in their own homes by the general practitioner, the local health authority and voluntary agencies acting in conjunction with the domiciliary specialist services of the hospital out-patient department; that a hospital geriatric service should be developed; and that there should be an accurate diagnosis of all elderly patients. This should be applied, not only to new admissions, but also to patients already in chronic wards. The council was perturbed at the number of instances drawn to its notice of chronic sick wards where accurate diagnosis had never been attempted.

It was felt also that special provision was needed for patients who were convalescing before returning to their own or local authority homes and for those who could expect no further benefit from active treatment but who were likely to require

nursing or occasional medical care for an indefinite period. These should not be cared for in acute hospitals or in the acute wards of general hospitals, but in a separate part of a larger hospital or in special hospitals or annexes.

On the general question of the administration of the new hospital health services, it is admitted in the report that any body whose task it is continually to consider the main lines along which the National Health Service should develop must be brought up time and again against the difficulties which arise from the administration of the Service through three separate local agencies. The problem of the proper co-ordination of hospital, local authority and general practitioner services and of the best means of ensuring co-operation between regional boards or hospital management committees, local health authorities and executive councils is one which has already engaged the attention of the council and its standing committees. The Standing Medical Advisory Committee in considering the

problem of the aged chronic sick has added to its deliberations a special recommendation on the need for co-operation between the hospital services which seek to discharge elderly patients no longer in need of regular medical or nursing attention, and the local authorities, whose duty it is under the National Assistance Act, to provide accommodation for those who still need care and attention and yet have no homes of their own. Co-operation is equally necessary in the converse case where local authorities look to the hospital service to relieve them of persons requiring hospital treatment. The Standing Medical Advisory Committee therefore felt the need for some joint committee of the authorities concerned to keep the various services in touch. It appeared to the council that the time had come when this problem of co-ordination and co-operation should be considered as a whole and not in relation to separate services. It is proposed, therefore, to consider what general advice should be presented to the Minister on the subject.

## MISCELLANEOUS INFORMATION

### LOCAL GOVERNMENT LEGAL SOCIETY

The Southern Branch of the Local Government Legal Society recently held their summer meeting at Southampton, when they were addressed by Mr. A. J. Jenkins, a barrister on the Western Circuit, on the subject of "The Liability of Local Authorities for Dangerous Premises"—Mr. Jenkins' lecture covered the position of invitees, licensees and trespassers (with reference to the special considerations applicable to children) upon local authority premises and dealt also with the situation arising where passers-by are injured by such premises without actually entering upon them. An interesting and lively discussion followed, in the course of which the implications of a number of very recent cases upon this subject were considered.

Prior to the meeting members, accompanied by their wives and friends, paid a visit to the "Queen Elizabeth," by kind permission of the Cunard White Star Co. Ltd.

Mr. R. R. Meyrick Hughes, the hon. secretary and treasurer of the branch, will shortly be taking up an appointment elsewhere, and arrangements have accordingly been made for Mr. A. T. Barringer, Senior Assistant Solicitor to the Southampton Corporation, to carry out these duties until the next branch meeting.

### THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION

At the invitation of the Netherlands Government, the twelfth International Penal and Penitentiary Congress was held at The Hague from August 14 to 19, 1950. The Congresses, which are held quinquennially, are organized by the International Penal and Penitentiary Commission for the Prevention of Crime and the Treatment of Delinquents.

The eleven congresses which have taken place over the past seventy-five years have made a positive contribution to the modern development of penal law and penology. These gatherings have always attracted from various parts of the world a large attendance of official delegates of governments, representatives of societies dealing with penal law and penology, and philanthropic associations working in this field, as also of private persons interested in the various problems of the prevention and repression of crime, the treatment and rehabilitation of offenders, and the reformation of delinquent and morally abandoned youth. By this combination of private initiative and the official element the congresses may be said to have succeeded in shaping, as it were, a universal conscience in respect of crime and prison problems and obtaining international recognition of certain important principles.

The official delegation from this country comprised the following: Mr. L. W. Fox (chairman of the Prison Commission); Mr. R. L. Bradley (Director of Borstal Administration); Dr. H. T. P. Young (Director of Prison Medical Services); Mr. J. Ross (Assistant Under-Secretary of State, Children's Department, Home Office); Mr. K. M. Hancock (Director of Prison and Borstal Services, Scottish Home Department); and Mr. W. Hewison Brown (Chief Inspector under the Scottish Children's Act).

### SOCIETY OF CLERKS OF RURAL DISTRICT COUNCILS

At the annual meeting held recently of the Local Government Clerks' Association the title of the Association was altered to "The Society of Clerks of Rural District Councils."

The members received with great regret an intimation from the retiring president (Mr. S. E. Holton) that, on health grounds, he was unable to accept nomination as president for the ensuing year.

In accepting the office of president, Mr. John Mudd (clerk of Sevenoaks Rural District Council) referred in appreciative terms to the debt which the society owed to the retiring president for his untiring efforts during the past year, and expressed the hope that the members would continue to have the benefit of Mr. Holton's help and guidance for many years to come.

The other officers appointed were: Senior vice-president, Mr. P. O. Cowlishaw (Taunton); junior vice-president, Mr. A. F. Perkins (Chailly); hon. treasurer, Mr. John Mudd (Sevenoaks); and hon. secretary, Mr. B. Lee (Tonbridge).

### NO CHANGE IN HOUSING SUBSIDIES

Exchequer subsidies and rate contributions for new houses built by local authorities in England and Wales are to be unchanged for the fifth successive year. They will remain at the level first fixed under the Housing (Financial and Miscellaneous Provisions) Act, 1946, and will be payable in respect of new houses completed before June 30, 1951.

This decision was announced by the Minister of Health, Mr. Aneurin Bevan, in his report issued as a White Paper under s. 16 (5) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, published recently.

The White Paper states:—

"Note has been taken of the latest figures of tender prices, of additional information on final costs of houses tendered for between 1946 and 1948, and of the present cost of repairs, maintenance and management.

"The available information indicates that tender prices for the 950 square feet house have remained stable since the middle of 1948, and the amount by which final costs had tended to exceed tender prices has been substantially reduced. The number of manhours per house has steadily decreased principally by reason of increased building experience and the introduction of incentive schemes, and a further decrease during 1950 is hoped for. No significant increase on the cost of houses completed in the next twelve months is anticipated on account of increases in wage rates. The prices of many materials used in house-building have shown little movement during the last two years though there have been some increases and some decreases.

"In all the circumstances, the Minister has come to the conclusion that he would not at the present time be justified in making an Order reducing the level of contributions and he has decided that they should remain as at present in respect of houses completed before June 30, 1951."

Under the Housing (Financial and Miscellaneous Provisions) Act, 1946, the principal subsidies are—

*General Standard Subsidy.*—Exchequer, £16 10s. per house for sixty years; local authority contribution, £5 10s. per house per year for sixty years.

*Special Subsidy for Houses for Agricultural Workers.*—Exchequer £25 10s. per house for sixty years. Rates £3 per year (£1 10s. from the local authority and £1 10s. from the county council) for sixty years.

## LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 57.

### AN OVERCROWDED DWELLING-HOUSE

The landlord of a dwelling-house at Stoke appeared, in July, 1950, before the Plymouth Justices charged, at the instance of Plymouth Corporation, of allowing the premises to be overcrowded, contrary to s. 59 of the Housing Act, 1936.

For the prosecution, it was stated that a father, mother and their seven children, whose ages ranged from seventeen to two, were living in two rooms which formed part of an eleven roomed house. In December, 1948, the occupier was offered by the Corporation a pre-fab containing four bedrooms, which he declined. The Corporation submitted that it was the landlord's duty to let the occupier additional rooms in the house, and that by failing to do so he had failed to prevent the overcrowding.

For the defendant, who pleaded not guilty, it was asked why the Corporation should have the right to say to a landlord "You will let your rooms to a certain person or we will take proceedings."

The facts were outlined as to why the defendant had not let additional rooms to the occupier, and the justices decided that he had not been unreasonable in not offering extra rooms to the occupier.

The defendant's solicitor then pointed out that he could not take proceedings in the county court for possession unless he was in a position to prove overcrowding. He stated that he had offered to take proceedings, but the Corporation had refused any assistance, their attitude being "if you apply to the county court, the judge is bound to give you an order for possession and we should have to re-house the family and we don't want them."

The court adjourned the proceedings for seven days, stating that at the adjourned hearing they would have to decide whether the defendant was reasonable or unreasonable in not taking proceedings to obtain possession.

Mr. W. E. J. Major, defending solicitor, to whom the writer is much indebted for information in regard to this case, states that the Town Clerk has given notice that he intends to withdraw the summons at the adjourned hearing so that the only matter remaining outstanding is the question of costs, for which defendant is applying.

### COMMENT.

This case illustrates the housing difficulties experienced in the Plymouth area. Many will think that it is wrong for the Corporation to act as they have acted in this case, and the writer believes that it is within the competence of the justices to refuse to allow the summons to be withdrawn. It may well be thought that the corporation, in instituting proceedings, should have had regard primarily to the interest of the occupiers and, having failed to persuade the justices that the defendant was unreasonable in not making available to the occupier additional accommodation in his house, they should have faced up to the possible alternative decision of the justices had the matter been fought out to the end, viz: that the defendant should have taken steps for possession even though the consequence of such decision might well be to place upon their shoulders the obligation of finding suitable alternative accommodation.

It is provided by s. 59 that an occupier who causes, or a landlord who permits, a dwelling-house to be overcrowded shall be liable on summary conviction to a fine of £5 and to a further fine not exceeding £2 in respect of every day subsequent to the day on which he is convicted on which the offence continues.

R.L.H.

No. 58.

### KILLING WILD DUCK DURING CLOSE SEASON

A water bailiff was charged recently, at Driffield Magistrates' Court, with killing three mallard during the prohibited period, namely on May 16, 1950, contrary to the Wild Birds Protection (East Riding) Order, 1948, made under the Wild Birds Protection Acts, 1886 to 1896.

For the prosecution, evidence was given by a game keeper of forty-five years' service that he saw the defendant shoot three wild duck with two shots from a sporting gun whilst the ducks were feeding on a fishing stream near Driffield. Witness asked defendant what he was doing, and the latter replied that he had seen three wild ducks on the fishing stream, and as duck on trout streams were looked upon as vermin, they must be treated as such.

The defendant, who pleaded not guilty, stated that he had some, twenty years' experience as a water bailiff: he admitted the facts, but contended that mallard were vermin and he produced a volume on *River Keeping* to substantiate his argument. He told the police when

they interviewed him "I came here to make this a first class trout fishery. One of my first jobs was to get rid of the vermin."

The justices decided to convict and imposed the maximum penalty of £1 per duck.

### COMMENT.

The quantity of legislation directed to the preservation of wild birds is surprising to a townsman. By the 1948 Order, which refers to numbers of birds, of which the average person has never heard, it is provided in art. 3 that the period of the order during which wild birds are protected by the Wild Birds Protection Act, 1880, shall be extended throughout the administrative county of the East Riding of Yorkshire so far as regards wild birds not mentioned in art. 1 or art. 2 of the order, so as to begin with February 1, and end with August 11.

Neither art. 1 nor art. 2 of the order refer by name to wild duck or to mallard, and therefore it would appear clear that the justices reached a right decision in view of the fact that the shooting referred to above occurred on May 16.

The term "wild duck" is defined in s. 4 of the Wild Birds (Duck and Geese) Protection Act, 1939, as meaning "eider, duck, mallard, pochard, sheldrake, shoveller, smew, teal, widgeon, and wild duck of any other species whatsoever, except merganser and goosander."

Admirers of the chirpy house sparrow will learn with regret that by art. 4 of the order it is expressly excluded from the respite given to all other wild birds on Sundays throughout the year and on Christmas Day. On those days the slaughter or capture of all other wild birds is expressly prohibited.

(The writer is indebted to Mr. H. W. Rennison, clerk to the justices, Bainton Beacon Division, for information in regard to this case.)

R.L.H.

### PENALTIES

West Bromwich—July, 1950—fraudulent conversion of £1 16s. (two charges)—fined £5 upon each charge. Defendant, a forty years old die-caster, acted as organizer of a football sweep and savings club. He asked for forty-eight other offences to be taken into consideration and the total amount involved was £56 14s.

West Bromwich—July, 1950—stealing a cash-box containing £31 1s.—twelve months' probation. Defendant, a forty-two year old spinster who kept house for her blind father and three brothers, stole the money from one of her brothers while making his bed.

Derby Quarter Sessions—August, 1950—(1) forging ration documents with intent to deceive (three charges), (2) disposing of a quantity of points coupons contrary to the defence regulations (two charges)—fined a total of £150. Defendant had eight years' honourable employment in a food office but then made over 285,000 points to a traveller who passed them on to retail grocers who were short of points. The traveller was fined £35. It was stated that neither the woman nor the traveller received any money from the transaction.

Williton—August, 1950—careless driving—fined £1. To pay £5 9s. 11d. costs. Defendant drove his bus into the rear of a stationary coach which he could have seen for 319 feet.

Stoke-on-Trent—August, 1950—stealing export ware and china figures valued at nearly £400—six months' imprisonment. Defendant, a thirty-four year old pottery worker. In a loft at his home the police found fifty cardboard boxes packed with pottery and china figures including 1,200 plates and 1,000 cups.

Sunderland—August, 1950—being under the influence of drink in charge of a car—fined £5. The defendant, a thirty-five year old engineer and surveyor to a rural district council, was found by the police persistently sounding the horn from the rear seat of the car. As the magistrates felt that defendant had not intended to drive they did not suspend his licence.

Edinburgh Juvenile Court—August, 1950—(1) stealing a tea cosy from his mother's house, (2) attempting to obtain money by false pretences—to go to an approved school. Defendant, a twelve-year old boy on probation, sold his mother's 25s. tea cosy for 2s. 6d., and with the proceeds bought two rolls of tickets which he took to houses pretending that they were tickets for a lottery to be drawn the next day.

Bristol—August, 1950—dropping a bottle on the road from the upper deck of a bus—fined 40s., to pay 15s. costs.

Glasgow—August, 1950—stealing £47 from the rewards cashbox at a police station—fined £25. Defendant, a thirty-six year old inspector with a brilliant record, said that he took the money as a temporary loan as he was short of money for his holiday.

## REVIEWS

**Hayward and Wright's Office of Magistrate.** Eighth Edition. By James Whiteside. London: Butterworth & Co. (Publishers) Ltd. Price: 17s. 6d. Postage 8d.

The time is long past since justices were expected or were content to leave everything to their clerk, except, perhaps, the question of sentence. Today they are no less sensible of the wisdom of reliance on the clerk for advice, but they have a stronger sense of their duty to acquire a broad and general knowledge of their powers and functions, so that they may, while accepting most of the advice they receive, be able to exercise their judgment with understanding. So much has been said and written about the necessity for lay magistrates to equip themselves by study of handbooks and attendance at lectures that the public is beginning to demand a higher standard of efficiency than ever before; and there is plenty of evidence that the magistracy is rising to the occasion.

In this business of learning their duties, it is important that learners should be furnished with the best handbooks. *Hayward and Wright* is an ideal book for the purpose, and many magistrates and clerks who are by no means novices are often glad to consult it. It is small enough to be carried in the pocket yet it is a complete survey of the work of a magistrate. Every aspect of the work of a magistrate, in court or out of court, is dealt with, and there have even been included some of the history of the office and some reflections on punishment, its purpose and effect. Procedure is described, in both indictable and summary cases, civil as well as criminal jurisdiction is described, there are sections on matrimonial proceedings, bastardy, rates, lunacy and mental deficiency, and intoxicating liquor licensing. We cannot suggest anything which ought to have been included which is not to be found here.

Only an editor who was thoroughly steeped in knowledge and experience could have accomplished the task, always difficult, of compressing into a small space statements upon technical matters which must be accurate beyond dispute and also easily understood by readers many of whom are newcomers in this field of work. Mr. Whiteside writes clearly, concisely and with no uncertainty, just because he has complete mastery of his subject.

As he says in his preface, though he has not indulged in numbers of footnotes, citation of statutes or quotations from decisions, every statement of the law he makes can be supported by authority. The result is a book which can be relied upon, which is admirably adapted to a course of study and easy to read and understand. Every new magistrate will find here the very handbook he wants, a book he should read, not once only, but often.

**Current Affairs: Crime and Punishment.** By C. H. Rolph. The Bureau of Current Affairs, 117 Piccadilly, W.1. Price 9d.

That the author has a bias in one direction can be deduced from the fact that he is on the executive committee of the Howard League for Penal Reform. He does emphasize, however, that many of the views expressed are entirely his own. The pamphlet is a very readable one, and contains a good deal of useful information which could well form the basis for many interesting discussions on the problems with which it deals. It is stated that the Cadogan Committee of 1938 found that of 440 men convicted of "floggable" offences, 142 were sentenced to corporal punishment and 298 were not. 10.6 per cent. of the 142 were subsequently convicted of serious crimes of violence but only 5.4 per cent. of the 298 were similarly convicted. Nothing is said about the possible different records and histories and other relevant details of the 142 as against those of the 298, which must have a very great bearing on the likelihood of the offenders being re-convicted, but the statement is made "So the flogging of the violent offender appeared to be less effective than not flogging him, at least in deterring the convicted man himself from repeating his crime." We are expressing no opinion of the merits of the point in question, but we do not think that an argument is strengthened by drawing conclusions from statistics without making any reference to the fact that other factors may have an important bearing on the conclusions which should properly be drawn. Statistics are used in this way, however, by a great many people and that may account for the opinion of the judge who, according to Mr. Rolph (and apparently not wholly to his liking), declared "I am not interested in statistics, I'm concerned with fact."

The author does agree that on the issue of capital punishment many of the arguments put forward reflect some muddled thinking on both sides, and indeed most people who are honest with themselves must admit that these questions of crime and punishment are affected by so many different factors, some pulling one way and some the other, that it is extremely difficult to think really clearly and logically about them.

## PERSONALIA

## APPOINTMENTS

Mr. Thomas Craddock has been appointed clerk to the Smethwick county borough justices. Mr. Craddock is the deputy clerk at Smethwick and was formerly at Halesowen. During the war he was also acting clerk to the Rowley Regis petty sessional division. Mr. Craddock was a founder-member of the National Association of Justices' Clerk's Assistants.

Mr. A. John Broughton, clerk to the Warrington justices, has been appointed clerk to the Oxford city justices in succession to Mr. Francis J. Walsh. Mr. Broughton has held his present position since 1946, and he has had previous appointments as clerk to the courts of Walsall county borough, Stratford magistrates' court, Burnley county borough, West Ham magistrates' court, and Dewsbury county borough.

Mr. R. R. Meyric Hughes, senior assistant solicitor to the Dorset county council, has been appointed deputy secretary of the County Councils Association. Mr. Hughes was assistant solicitor to the Cheshire county council before the war, and during the war he served in the army, being demobilized with the rank of lieutenant-colonel.

## NEW COMMISSIONS

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## PRACTICAL POINTS

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**1.—Compulsory acquisition of land—Possessory title—Boundaries—uncertain—Procedure to safeguard purchaser.**

In 1946 a compulsory purchase order under the Housing Acts made by my council was confirmed by the Minister of Health, and notice to treat duly served upon the reputed owner. A notice to enter was served very shortly afterwards, and the council are in possession. The owner agreed terms for compensation with the district valuer, but when the title came to be investigated it was found to rest only upon a statutory declaration, claiming undisputed possession for a period of fifteen years and upwards, made by the reputed owner and a friend and dated two years after the date of the compulsory purchase order. The land is difficult to identify as it comprises a few building plots on an unfenced piece of land comprising a number of similar plots, which had many years ago been sold off by an estate company which is now defunct. Reference is made to *Ex parte Webster* [1866] W.N. 246. Should the council take a conveyance and pay over the agreed compensation money, or should they pay the compensation money into the bank under the Lands Clauses Consolidation Act, 1845, or should the council take out a vendor and purchaser summons?

A. CIVICUS.

Answer.

The case cited indicates that money paid into a bank can properly be paid out to a vendor who has no more than a possessory title. The principle involved is fully apparent from Lord Macnaghten's speech in the Privy Council case of *Perry v. Clissold* (1907) 95 L.T. 890. So far as the fact goes, that the title is merely possessory, the council can and should pay, but in the case before us there seems doubt not merely about the quality of the title but about the quantity of the land. We think a vendor and purchaser summons could properly be applied for, to clear up the position.

**2.—Education Act, 1944—Attendance—Child away with mother—Father's liability.**

Mr. and Mrs. A. together with their child reside in the area of a local education authority, and the child is a registered pupil at a school maintained by that authority. During term time the child is absent from school while accompanying its mother into the hop fields in the country but Mr. A. the father remains at home. The child may be absent from school for some time. In view of s. 39 of the Education Act, 1944, your opinion as to whether, in the circumstances, the father is liable to proceedings would be appreciated. Your arguments for and against a case as quoted would also be welcomed.

A.P.O.

Answer.

We have perhaps missed the point of the question, for we can see no reason for doubt. The father is "the parent," and is not relieved of his liability under s. 39 by the fact that the child is in the mother's company outside the area where it is a registered pupil.

**3.—Hawkers Act, 1888—House to house sales from motor car.**

Section 2 of this Act deals with the definition of hawk, from which it appears that two classes of persons come within the definition.

(a) Those who travel with a horse or other beast bearing or drawing burden, and go from place to place or to other men's houses carrying to sell or expose for sale any goods, wares or merchandise or exposing samples or patterns of any goods, wares or merchandise to be afterwards delivered; and

(b) those who travel by any means of locomotion to places where they do not usually reside or carry on business and there sell or expose for sale any goods, wares or merchandise in any place whatever hired or used for the purpose.

It appears that a man who drives from place to place with a horse and cart and sells or exposes for sale goods, wares or merchandise, needs a licence, but if that same man, on the following day, used a motor car instead of the horse and cart and did exactly the same thing, he would not require a licence. In the absence of any case which clearly states that motor vehicles when used for the purpose of selling or exposing for sale goods, wares, etc., are included, I should be grateful for your observations. As I understand it in (b) to use any means of locomotion, which includes a motor car, a hawk's licence is not required unless the driver hires a place for the purpose of sale of exposure for sale.

A.W.T.

Answer.

We agree with your conclusions. For what that Act of 1888 and the Pedlars Act, 1871 and 1881, may be worth in modern times, they ought to be rationalized. As they stand, the trader you mention drives his car through them.

**4.—Landlord and tenant—Small Tenements Recovery Act, 1838—Contractual tenancy holding over as statutory tenant—Forms of notice and complaint.**

Where a tenant has received notice to quit and has remained in possession as a statutory tenant under the Rent Restrictions Acts, is it in the event of proceedings to recover possession under the Small Tenements Recovery Act, 1838, necessary to state in the statutory notice that the tenant has remained in possession as a statutory tenant, or can the question be left as a matter of evidence to be proved to the satisfaction of the court? According to the judgment of Lord Goddard, C.J., in *Bowden v. Rallison* (1948) 112 J.P. 283, it should be so described, but in view of the fact that this question does not appear to be wholly free from doubt, we shall be glad to receive your opinion in the matter.

AMY.

Answer.

The basis of the Act of 1838 is that a contractual tenancy has ended, and that either the former tenant or some other person is holding over. In the forms scheduled to the Act, the owner is required to inform first the person so holding over, and then the magistrates, how the tenancy ended. The whole point of the decision cited in the query is that, when a tenancy ended in 1939, after which date the former (contractual) tenant had been holding over in virtue of a statutory right, it was wrong to tell the magistrates that the tenancy ended in 1949. In our opinion the correct course in the case before us is to recite the former existence and the mode of termination of the contractual tenancy (by notice to quit or as the case may be) both in the form 1 (notice of intention) and in the form 2 (complaint to magistrates). The fact that the former contractual tenant has exercised his right to become a so-called statutory tenant is then a matter of evidence; indeed, we are not certain that it is even relevant as evidence, and we do not read the judgments in *Bowden v. Rallison*, *supra*, as requiring the owner to state in the statutory forms under what colour of right the former tenant has held over.

**5.—Licensing—Ordinary removal or new licence—Question of monopoly value or development charge.**

In the past when application was made for the ordinary removal of an on-licence from old or small premises to much improved or larger premises, objectors would take the point that to grant the removal meant that payment of monopoly value was thereby evaded and that the applicants ought to offer a surrender of the existing licence and apply for a new licence for the new premises, so that payment of monopoly value would be suffered.

In view of Press Notice No. 6, (published by the Central Land Board on October 6, 1948: copy enclosed) is not such an objection now quite irrelevant, at any rate where the ordinary removal proposed is to premises whereof the "existing use" is as a private dwellinghouse? In such a case must not the development charge on change of user always be equal to (or more than) the monopoly value payable on the grant of a new licence: actually it is difficult to avoid the conclusion that the two figures must always be equal.

NOSO.

Answer.

It must be remembered, of course, that monopoly value and development charge are payable into different funds; and that, we think, concludes the matter so far as licensing justices are concerned when they are considering an argument that ordinary removal procedure ought to give place to the procedure laid down in s. 73 of the Finance Act, 1947, with a consequent set-off in monopoly value.

Press Notice No. 6 makes it plain that the Central Land Board have carefully formulated procedure so as to reconcile their claim to development charge with the pre-existing legal right of the Commissioners of Customs and Excise in respect of monopoly value, and we think that licensing justices should have no difficulty in accepting this situation.

**6.—Local Government Act, 1933—Qualifications for election, etc.—Cesser of qualification.**

At the triennial elections of rural district councillors held in 1949, one of the elected councillors was qualified to be elected by virtue of qualification (a) only, of s. 57 (1) of the Local Government Act, 1933. Until a few months ago this councillor resided in the rural district, but he now resides outside the rural district and is not now on the current register of electors in force as from March 15, 1950.

1. Was this councillor disqualified from holding the office of rural district councillor when the current register of electors became operative, *i.e.*, March 15, 1950?

2. Does the fact that he was qualified to be elected to, and to hold the office of councillor in May, 1949, the date of the ordinary elections, hold good until the next triennial elections in 1952, even though he will not be on future registers of electors for the area?

BAKI.

Answer.

1. Yes, if in truth (a) was his only qualification. But we are told that "until a few months ago he resided" in the district; from when? The statement suggests that he could have had qualification (c) also.

2. Not if he had (a) alone. Section 57 (1) lays down qualifications both for election and continuance. Those lettered (c) and (d) hold good throughout the term of office, if existing at the outset; those lettered (a) and (b) do not, and s. 64 (a) with s. 65 (f) provide the machinery for filling the place of a councillor who ceases to be qualified.

#### 7.—National Assistance Act, 1948—Recovery of drowned persons.

Does the responsibility for the burial or cremation of the dead under s. 50 (1) of the National Assistance Act, 1948, placed on the authorities specified in subs. (2), extend by implication to the recovery of drowned persons from tidal or navigable waters in view of the repeal in the section mentioned of the Burial of Drowned Persons Acts, 1808 and 1886, which make provision for such recovery? The question arises in connexion with operations in tidal waters, in the area of a non-county borough which is also a port and harbour authority. AUR.

Answer.

Where a dead body is found in water "in" the area, as may happen in some places notwithstanding that the water is tidal or navigable and also where a person has died "in" the area and the body has floated out of the area, it is the duty of the council (if no other arrangements are made) to bury or cremate, neither of which can be done without bringing the body to land. Otherwise the section imposes no such duty. Nor indeed did the old Acts cited: by the Act of 1808 a duty was placed on the parish "in which" a dead body was found thrown in or cast on shore from the sea. The Act of 1886, passed in consequence of the Princess Alice disaster (*Woolwich Overseers v. Robertson* (1881) 45 J.P. 766), extended the duty to bodies found in or cast on shore from tidal or navigable waters, but the words "in which" quoted above were not altered. The overseers and their successors were therefore not required under either of the old Acts to recover corpses floating outside their area.

#### 8.—Pleasure Boats—Licensing—Rubber dinghies.

My council's local Act of 1901 authorizes them to grant licences for pleasure boats and vessels to be let for hire and prohibits the letting for hire of any pleasure boat or pleasure vessel not so licensed. A local shopkeeper is offering and in fact letting for hire a number of ex-R.A.F. rubber dinghies. Can these rubber dinghies be considered to be pleasure boats or vessels within the terms of the local Act? ASU.

Answer.

We suppose that in the last analysis the question, what is a boat or vessel, must (like the question, what is a building or a passenger steamer) be a question of fact; cf. *Duncan v. Graham and Others* (1950) 114 J.P.N. 435. Just as magistrates have avoided results they thought absurd by finding that certain structures were not in fact buildings, and the Divisional Court has refused to upset them, so we imagine that your local bench might refuse to hold everything a boat, in which a person could be propelled on the water. But the large rubber dinghies, capable of supporting several persons, seem to us to be boats or vessels within the local Act section, and the corresponding provisions of the general law. When they are sound, passengers can safely travel in them for long distances over deep water: this was indeed their *raison d'être* in the war. It follows that they can if unsound driven as many passengers as a wooden craft of the same carrying capacity.

#### 9.—Public Health Act, 1936—Public sewer—Cleansing—Delegation and ratification by council.

A sewer serving four houses and falling within the definition of s. 24 (4) has become choked.

1. Have the local authority power to cleanse having regard to the definition of maintenance in this section?

2. If the answer is no, what authority is contained in the Act to cleanse, having regard to the fact that s. 39 apparently applies to private sewers only?

3. Is it necessary to obtain the consent of the local authority (i.e., full council) to proceed, even in extreme urgency? APP.

Answer.

1 and 2. Yes; the council are by s. 23 under a duty to cleanse the sewer. What they cannot do is to recover the cost under s. 24 or 39.

Section 23 speaks of maintenance and of cleansing; s. 24 of maintenance alone. Section 39, as you say, does not apply.

3. This depends on the extent of delegation to committees, which is a matter for the council itself. Your asking the question suggests that the council has not yet made full use of s. 85 of the Local Government Act, 1933. If this is the position, the public health committee (or whatever is the appropriate committee) will have to decide between three courses: to let the matter wait for a council meeting in the regular course; to arrange for a special council meeting; or to give orders for doing the work and rely on the full council to ratify those orders afterwards. If there is "extreme urgency," as you say, the full council, on being told why the committee had gone ahead without authority, could surely be trusted to ratify what had been done.

#### 10.—Water Act, 1945—Water rate—Additional charge—Agreement with former owner.

In 1939 a local authority entered into an agreement under s. 126 (2) of the Public Health Act, 1936, for the supply of water to a dwelling house for domestic purposes. The agreement provided for the payment of an annual sum in addition to the current water rate, and it was entered into with the owner of the dwelling house. There was no specific provision for the determination of the agreement. It was not registered as a local land charge because it was not considered to involve any charge on the premises but merely to be evidence of a contract for the supply of goods. The premises have now changed hands and the new owner refuses to pay anything more than the normal water rate, and states that he had no notice of the existence of the agreement. The agreement would not appear to bind the original owner's successors in title, but can the council recover both water rate and the annual charge under s. 38 of the Water Act, 1945, on the ground that the expression "water rate" includes "any additional charge"? If not, have the council any remedy other than proceeding against the original owner on the personal covenant? ACTI.

Answer.

The information given about the agreed charge is rather slender, but, assuming the agreement to have been within s. 126 (2) of the Act of 1936 to begin with, we think the charge is recoverable with the water rate from the person now liable to pay that rate. We do not think it requires registration as a local land charge, in order to produce this result.

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Applications, with particulars of experience and the names of two referees, must be delivered to the Clerk of the County Council, County Hall, Aylesbury, by September 19, 1950.

GUY R. CROUCH,  
Clerk of the Bucks County Council.

County Hall,  
Aylesbury.

**COUNTY OF KENT****Appointment of Male Senior Probation Officer**

THE Kent Combined Probation Committee invites applications from male probation officers for appointment as Senior Probation Officer to serve in the Kent Combined Probation Area. Applicants must have had wide experience as probation officers and be capable of supervising the work of other officers.

The appointment will be subject to the Probation Rules, 1949, and the selected candidate will be required to pass a medical examination.

Applications, stating age, experience and educational qualifications, together with copies of not more than three recent testimonials, should be sent to the undersigned within 14 days from the appearance of this advertisement.

W. L. PLATT,  
Clerk of the Peace.

County Hall,  
Maidstone.  
September 1, 1950.

**CITY AND COUNTY OF BRISTOL****Appointment of Male Probation Officer**

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer for the City and County of Bristol.

The appointment and salary will be in accordance with the Probation Rules, 1949, and the successful applicant will be required to pass a medical examination.

Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving probation officers or persons who are otherwise qualified for appointment under the Probation Rules.

Applications, stating age, experience and qualifications, together with copies of not more than three recent testimonials, must be sent to reach the undersigned not later than Monday, September 18, 1950. Envelopes should be endorsed "Appointment of Male Probation Officer."

A. J. A. ORME,  
Clerk to the Justices.

Petty Sessional Court House,  
Bristol 1.

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APPLICATIONS are invited for the above whole-time appointment. The Area comprises the County Borough of Barrow-in-Furness and the Petty Sessional Divisions of Lonsdale North of the Sands and Hawkshead. Applicants must be not less than 23 and under the age of 40 years, except in the case of serving whole-time probation officers or persons who have satisfactorily completed an approved course of training.

The appointment and salary will be subject to and in accordance with the Probation Rules, 1949, and an allowance of £100 per annum in connection with the use of the officer's own car will be paid. The post is superannuable and the successful applicant will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with copies of three recent testimonials, must reach the undersigned not later than September 30, 1950.

JOSEPH WILLS,  
Clerk of the Combined  
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Magistrates' Clerk's Office,  
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Review

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The personal salary will be £1,060 per annum, but this will probably be subject to review.

All fees and other emoluments receivable by the Clerk in any capacity shall be paid into the Borough Fund.

The candidate appointed will be required to devote his whole time to the duties of the office which will include those of Collecting Officer, and not engage in any other employment.

Office accommodation and staff will be provided together with necessary books, stationery, etc.

The appointment is subject to the confirmation of the Secretary of State and to the provisions of the Local Government Superannuation Act, 1937; and will be terminable by three calendar months' notice on either side.

The successful candidate will be required to pass a medical examination.

Applications, stating age, and full particulars of qualifications, experience, past and present employment, and the names of three referees, must reach the undersigned not later than September 25, 1950, in envelopes marked "Justices' Clerkship."

A. JOHN BROUGHTON,  
Clerk to the Justices.

17, Bold Street,  
Warrington.  
September 4, 1950.

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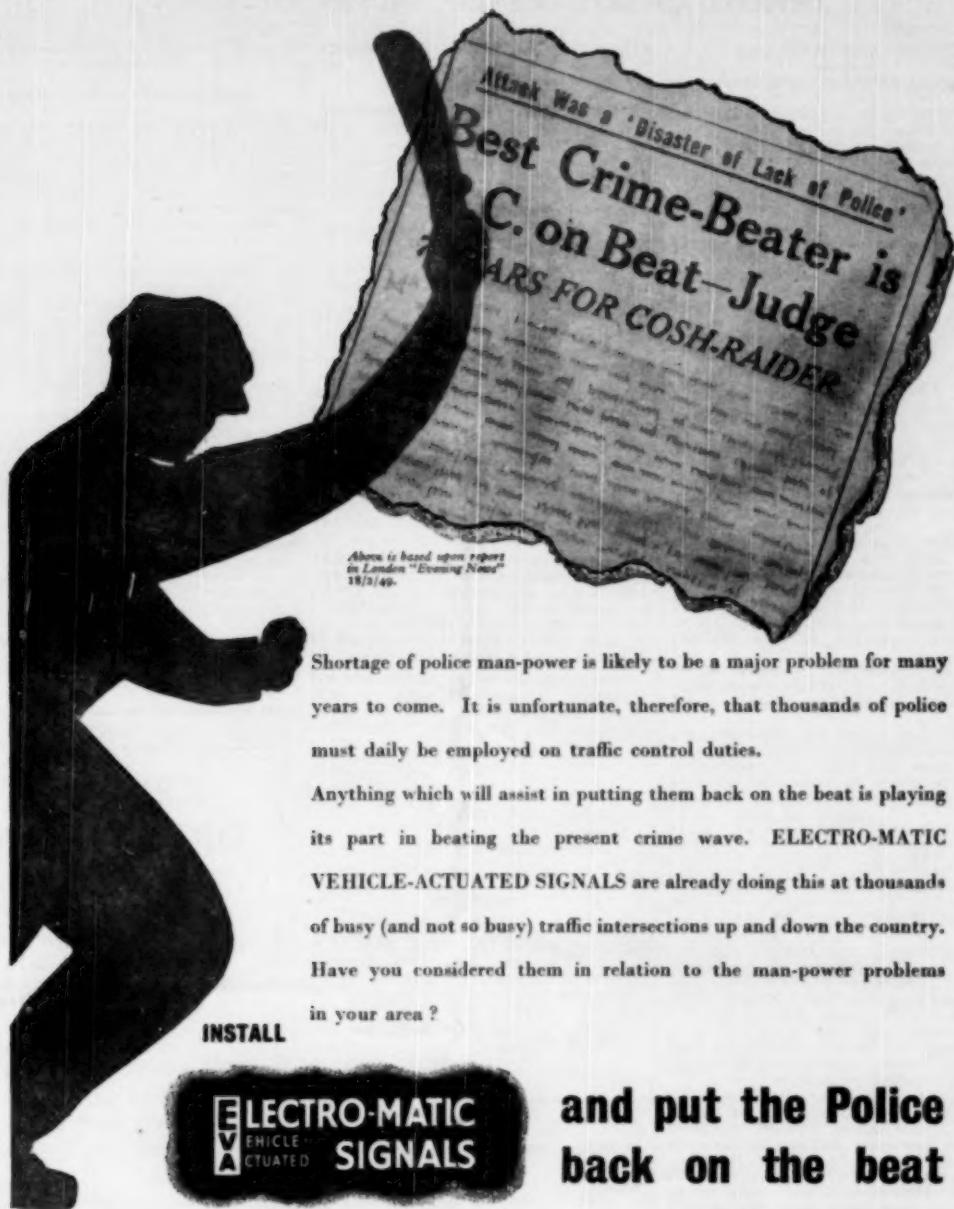
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